

# DS State Program Standing Committee (SPSC)

September 19, 2019

Oak Conference Room, Waterbury State Office Complex

## Attendees

Committee Members: Susan Yuan, Ann Bakeman, Lyn Ujlaky, Max Barrows, Rachel Colby, David Ballou, Mark Utter, Joy Redington, Ed Place, Bill Ashe, Barb Prine, Ellen Malone, Connie Woodberry, Bethany Drum

Guests: Tonya Mason, Judy Cookson, Bart Mair, Lee Reilly, Kara Artus, Jess Moore, Emily Anderson, Josh Bertini, Ben Gallagher, Sara Hanlon, Leigh Holliday, Lynne Cleveland Vitzthum

State Employees: Susan Aaranoff, June Bascom, Lisa Parro, Clare McFadden

## Review Agenda and Meeting Minutes

Introductions were done and the meeting agenda was reviewed. The Transition Plan HCBS Rules presentation and the Staff Stability Indicators presentation were switched. The DS State Program Standing Committee (SPSC) meeting minutes from August 15, 2019 were reviewed. Bethany made a motion to accept the minutes, Joy seconded the motion and it was passed.

## DDSD Updates

### DD Regulations

The Supreme Court stated that Vermont's DD Regulations on eligibility are not clear. Since the supreme court made the ruling about eligibility for DD services, the Department of Disabilities, Aging, and Independent Living (DAIL) has been working to draft the necessary changes to the eligibility criteria to make it clear as to who is eligible for DD services. The plan is to have a draft ready to share in a couple of months. Since the ruling, there was an uptick of people coming into DD services; however, it is unknown if there has been an influx since that time. Amy Roth has been working on getting updated data since the change.

### DS Payment Reform

There is a lot of work going on with conflict of interest in case management (COI) and DS payment reform. The DS Payment Reform Workgroup created a reference document that explains the process in simple terms, without a lot of jargon. It is a living (working) document and will

continually change. It includes what the State has decided, what remains to be decided, who makes the decision, and the opportunities for input.

The DS Payment Reform Workgroup is discussing multiple payment models and the risks. They plan to reach out to the stakeholders by possibly taking the information about the models to public forums; these forums have not yet been planned. DAIL will work with the DD Council and GMSA to create the materials for the various audiences so they can understand the proposed models.

### Staff Stability Indicators

At a previous meeting, Susan Yuan asked if there was any data regarding the method of communication used by people receiving services collected in the Vermont Adult Consumer Survey. June provided a handout that gave the preferred method of communication over the past three years.

A handout was provided about the key data from the National Core Indicators Staff Stability Survey. The full report can be found on the DDSD website. <https://ddsd.vermont.gov/nci-ddsd-vt-staff-stability-reports>

Each year different states participate in the survey; in 2017, 19 states and the District of Columbia participated. This is the fourth year Vermont has been involved (calendar years 2014, 2015, 2016, 2017). Vermont did not participate this year to give the providers a break.

A question was raised about the current vacancy rate in Vermont vs. 5-10 years ago. June is able to go back to 2014; however, there was different methodology at that time so the comparison would not be looking at the same things. The agencies may have this information, but it would be a lot of work for the agencies to do this comparison. It is hard to compare Vermont with other states as most states have few, if any, shared living providers (a highly used model in Vermont) and many more group homes. The survey only looks at agency staff, not contracted providers so there is a much small sample size of staff who provide residential services. Keep in mind when looking at the survey data that, due to differences in how services are provided in each state and the differential in the size of the DD population, it is hard to make comparisons across states.

The Department of Labor does a classification of employees (personal care aids, individual aids in school, etc.); however, they do not do a full assessment of this, one that delineates DS from other programs. Vermont Care Partners have provided some of this information to legislature. The State is aware of this workforce issue. It is of concern as it is likely to get worse due to the aging workforce, low unemployment, and the decreasing number of young people in the state. Even if the wages could be increased, there are not enough people to fill the jobs.

## Home and Community Based Services Rules and Transition Plan

The Centers for Medicare and Medicaid Services (CMS), Home and Community Based Services (HCBS) rules require the States to be in compliance with the rules by March 2022. Vermont is already mostly in compliance with the rules, so there is not a large amount of work to do to become fully compliant. We have been working for several years on the transition plan for the areas where Vermont needs to become compliant.

All of the CMS regulations were reviewed to determine what needs to be changed in order to be in compliance with the rule. DAIL also reviewed the DS regulations and made changes to be consistent with the requirements. A survey was sent out to the providers to see what items they thought were and were not in compliance to the rules and sent this information back to the State. The Quality Assurance team is using the regular samples for reviews to look at the home settings and has done a special visit to Heartbeet (licensed therapy residence; 5 shared homes on a campus). The group community supports were looked at also. All site visits have been completed and a report needs to be sent out to the agencies to show where they remain non-compliant. The agency will then need to send a plan of correction to the State. DAIL will ensure the changes are made and will be in compliance by 2022.

Most of the issues that have been found were mainly in 2 areas; areas where the State has not yet issued guidance for compliance:

- Locked door policy – A person needs to be able to lock the door to his/her room, but other people need to have the ability to get into the room in case of an emergency. DAIL will draft some guidance and bring it the agencies and other stakeholders for input before issuing the guidance.

- Tenancy rule – It is complicated about how to apply this to the shared living. The State will carefully craft something, taking into consideration the shared living arrangement. The State will also look at foster care as it relates to the tenant agreement.

The State determines if there is a need for heightened scrutiny of certain the living arrangements or settings that appear institutional in nature. Originally in the rule, Farmstead communities were called out for heightened scrutiny. A large organized State team reviewed Heartbeet, a farmstead community, to determine if heighten scrutiny by CMS was needed. During this process, the rule was changed, and CMS said farmstead communities were not automatically required to go through heighten scrutiny. In any case, the state team identified some improvements for Heartbeet, but found them mostly compliant with the rules and not in need of heightened scrutiny.

After the reports are completed and sent to the agencies, and correction plans are received, the information will be posted on the web and there will be a public comment period.

## Conflict of Interest in Case Management

Four public forums about the options for conflict of interest in case management have been held; one in Randolph (about 50 attendees), Colchester (about 75 attendees), St. Johnsbury (about 25 attendees), and Rutland (about 24 attendees.) The attendees have consisted of a good representation from agencies, some family members, and a small group of individuals receiving services. To help get more well-rounded feedback, the options are being presented at some additional venues as well.

The 5<sup>th</sup> public forum is scheduled for Springfield on 9/30/19, 2:00 – 4:00; and the DS Directors have requested another evening forum, so a 6<sup>th</sup> public forum has been scheduled for 9/25/19, 5:00 – 7:00 at the Jamaica Village School. Clare has also been asked to present the options at the statewide GMSA meeting on September 30<sup>th</sup>, 9:30 – 12:30, at Vermont Technical Center (VTC) in Randolph; this is an open meeting for people with disabilities. Camille George, DAIL Deputy Commissioner, will be presenting the options at the DD Council next Thursday in Middlebury at their regular meeting. A webinar of the options presentation is posted on the web for anyone to watch. <https://dvha.vermont.gov/global-commitment-to-health/conflict-of-interest-home-and-community-based-services>

An online Survey Monkey is the preferred method of feedback on the options for those with computer access, but paper copies of the survey have also been distributed in which an individual can filled out and mail, or scan it and e-mail it. The deadline for feedback is October 7<sup>th</sup>.

After collecting the feedback, it will be summarized and reviewed to help determine which direction the State should go. The State plans to have a conversation with CMS regarding the options we are considering to get feedback about options that they may approve. Then the State will craft a proposal and will obtain public feedback on the draft before submitting it to CMS. The SPSC encouraged an additional step with more conversation that provides more specifics, and follow-up to some of the questions that were raised. Clare agreed that the narrowed down solutions will be discussed at a future SPSC meeting.

There will be a lot of implications involved in order for the State to become compliant, such as the cost, how it will be rolled out, any changes to the regulations, etc. However, at this time the focus is on the direction the State should go and obtaining CMS' approval.

A document is being drafted to help families understand the COI options better, one without a lot of jargon. Without all the details decided the document cannot state what each option will do, but it can state the potential changes for people. The model used for this document was used for the DS Payment Model informational sheet as well.

It is not the State's intent to make funding cuts to the agencies, it is not the State's intent to cut people's services, and some funds have been set aside to assist agencies in complying; however, at this time, the State cannot say for certain what may be affected. As each decision point is reached, a financial implication analysis will need to be completed.

## GMSA, DS Director, VT Care Partners, DD Council Updates

GMSA had a Winston Churchill Fellows from England visit and review their work around sexuality.

The Annual GMSA Gala is October 23<sup>rd</sup> at the Capital Plaza. It is GMSA's 25<sup>th</sup> Anniversary!

GMSA just completed a Youth Summit with the Bridging program in the Champlain Valley. It involved students from many different high schools. GMSA helped teach self-advocacy skills to better prepare students for their transition from high school.

Bryce is a film maker presenting a documentary on September 25<sup>th</sup> about the train art stencil sculpture hanging on the railroad trestle when entering Waterbury. It is scheduled for 6:00 in the Steele Room at the Waterbury municipal building and there will be a Q&A with Phillip and I afterwards. Film Trailer: <https://www.youtube.com/watch?v=taGfHu7p7z8>

The Vermont Storylab is presenting 3 free Story-Telling Workshops around the state for people with a disability or a family members (October 15<sup>th</sup>, October 22<sup>nd</sup>, and October 29<sup>th</sup>.) They will teach people how to craft their stories and how they can have more input in decision making for things in Vermont, or to have just for themselves. The information to these workshops can be found on Facebook, or on the DD Council website.

<https://ddc.vermont.gov/news/come-free-story-telling-workshop>

The Cultural and Linguistic Diversity center is having a conference on March 13, 2020. The topic is "Stepping Forward Together 2020: Creating Solutions that Promote Health Equity" More information will be provided when it becomes available.

<https://vermontcarepartners.org/events/>

## DS SPSC Updates, Public Comments

There is a film showing at the Roxie Theatre in Burlington about a person with Down's Syndrome: The Peanut Butter Falcon movie. (After running away from a residential nursing home to pursue his dream of becoming a pro wrestler, a man who has Down syndrome befriends an outlaw who becomes his coach and ally. Showing at the Savoy Theatre, Big Picture Theatre & Café, Bijou Cineplex 4, Marquis Theatre & Café, Merrill's Roxy Cinema, and the Nugget Theaters)

Recognition was given to Greta Thunberg, a 16-year old activist from Sweden who has become the leader of a youth movement that's pushing governments and corporations to address the climate crisis. She is amazing! (On September 20, Thunberg led the largest climate strike in history, which included an estimated 4 million people across 161 countries.)

The Association for Successful Parenting (TASP) is having a conference on October 28<sup>th</sup> and 29<sup>th</sup> in Seattle, Washington. They will have some international speakers. Scholarships are available for parents with disabilities. [www.achancetoparent.net](http://www.achancetoparent.net)

September 12<sup>th</sup> there was an event to recognize event for direct support professional recognition day and how positive they have made it for people they serve who have disabilities.

The Autism National Committee is having a conference, More Power to Us: Civil Rights for Autistics, on November 1<sup>st</sup> and 2<sup>nd</sup> in Concord, New Hampshire. [www.Autcom.org](http://www.Autcom.org)